



**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

PAUL MITCHELL,

Plaintiff,

v.

No. 9:04-CV-937
(GLS/DRH)

PAUL HARRIMAN, et al.,

Defendants.

**DAVID R. HOMER
U.S. MAGISTRATE JUDGE**

ORDER

Defendants have moved for dismissal in the above captioned case pursuant to Fed. R. Civ. P. 12(b)(6). Docket No. 15. Plaintiff has failed to respond to the motion. Plaintiff is granted until **June 8, 2005** to file and serve any opposition to defendants' motion. If no response is received by that date, it will be assumed that the plaintiff does not oppose the motion. See N.D.N.Y.L.R. 7.1(b)(3) ("Failure to file or serve any papers as required by this Rule shall, unless for good cause shown, be deemed by the court as consent to the granting or denial of the motion, as the case may be.")

Plaintiff is advised that since the relief requested by defendants is dismissal of this case, his failure to respond to defendants' motion may result in the termination of the case in favor of the defendants, in which instance there will be no trial.

The Clerk is directed to serve a copy of this order upon plaintiff by certified mail, return receipt requested, and upon counsel for defendants by regular mail.

IT IS SO ORDERED.

Dated: May 4, 2005
Albany, New York


United States Magistrate Judge